

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**GEORGE F HINSCH**

Claimant,

and

**SPURGEON MANOR INC**

Employer.

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**HEARING NUMBER: 13B-UI-04807**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-2A, 96.4-3

**DECISION**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member concurring, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

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John A. Peno

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Cloyd (Robby) Robinson

**CONCURRING OPINION OF MONIQUE F. KUESTER:**

I agree with my fellow board members that the administrative law judge's decision should be affirmed. However, I would also comment that the only evidence in the record was that of the claimant. The facts are binding if supported by substantial evidence. See, Brockway v. Employment Appeal Board, 469 N.W.2d 256 (Iowa App. 1991), wherein the court of appeals puts it succinctly. "[W]hether the evidence supports a different finding than the agency's is not the question. The district court is acting in an appellate capacity and must affirm the agency decision if it is supported by substantial evidence." Id. at 258. Had the employer participated in the hearing, and provided evidence to support their side, the outcome of this case may have been different. For future reference, it behooves the employer to follow through with the instructions on the Notice of Hearing so as to present the best case possible before the administrative law judge.

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Monique F. Kuester

AMG/fnv